

Agenda

Item #4



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: September 21, 2010

Re: Commission Meetings in October

This memo discusses the meeting requirements for the Commission during the last month before the general election.

Under 21-A M.R.S.A. § 1002(1), “in the 28 days preceding an election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission.” With respect to “question[s],” the staff attempts to minimize the burden on the Commissioners by handling as many questions as we can informally at the staff level. Just before the general election, it is common for complaints or requests for investigation to be filed, which require your attention. Often, these complaints are politically motivated, and some have more merit than others. During this period, the Commissioners may meet by telephone. (21-A M.R.S.A. § 1002(2)(A))

Once a complaint is filed, I confer with the Commission Chair about the need for a meeting. If a meeting is required, Commission Assistant Cyndi Phillips or I confer with the Commissioners concerning scheduling. We are open to contacting you in whatever manner is convenient for you. Under the Commission’s rules, we will provide you with written notice by U.S. Mail if possible, but telephone notice and e-mail are usually more efficient. Chapter 1, Section 3(2) of the Commission’s rules governs the notice that you will receive.

You currently have a meeting scheduled for Thursday, October 28.

In addition, Section 1002(1) requires the Commission to meet “every two weeks in the 60 days preceding an election.” I have marked the remaining two-week periods with heavy lines on the attached calendar. You may wish to select a day during the period of October 5 to 18 for a possible meeting in case there is business to conduct. There are currently one or two staff investigations which might be ripe for Commission action during that two-week period.

Thank you for your consideration of this memo.

CHAPTER 13
CAMPAIGN REPORTS AND FINANCES

SUBCHAPTER I
GENERAL PROVISIONS

21A § 1001. Definitions


As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.


2. Election. "Election" means any primary, general or special election for state, county or municipal offices as defined in Title 30-A, section 2502, subsection 1.

3. Person. "Person" means an individual, committee, firm, partnership, corporation, association or organization.

21A § 1002. Meetings of commission

 **1. Meeting schedule.** The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every two weeks in the 60 days preceding an election. In the 28 days preceding an election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise.

2. Telephone meetings. The commission may hold meetings over the telephone if necessary, as long as the commission provides notice to all affected parties in accordance with the rules of the commission and the commission's office remains open for attendance by complainants, witnesses, the press and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted:

 A. During the 28 days prior to an election when the commission is required to meet within 24 hours of the filing of any complaint or question with the commission; or

B. To address procedural or logistical issues before a monthly meeting, such as the scheduling of meetings, deadlines for parties' submission of written materials, setting of meeting agenda, requests to postpone or reschedule agenda items, issuing subpoenas for documents or witnesses and recusal of commission members.

3. Other meetings. The commission shall meet at other times on the call of the Secretary of State, the President of the Senate, the Speaker of the House or the chair or a majority of the members of the commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

4. Office hours before election. The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election, and from 8 a.m. until at least 8 p.m. on election day.

21A § 1003. Investigations by commission

1. Investigations. The commission may undertake audits and investigations to determine the facts concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. For this purpose, the commission may subpoena witnesses and records and take evidence under oath. A person or political action committee that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.

2. Investigations requested. A person may apply in writing to the commission requesting an investigation concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

2-A. Confidentiality. (REPEALED)

3. State Auditor. The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and has all necessary powers to carry out these responsibilities.

3-A. Confidential records. Investigative working papers of the commission are confidential and may not be disclosed to any person except the members and staff of the commission, the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an investigation or audit:

A. Financial information not normally available to the public;

B. Information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's authorized committee, that if disclosed, would reveal sensitive political or campaign information;

SECTION 3. MEETINGS

1. **Regular Meetings.** The Commission shall meet at least once each month in any year in which primary and general elections are held. The Commission Chair, or if a Chair has not yet been selected, the Senior Commissioner in terms of service on the Commission, shall set a date for a meeting in January of the year of required monthly meetings. The dates of monthly meetings for each month of the year shall be selected at that meeting and shall be adhered to unless changed at a properly called meeting. In years not meeting the foregoing requirements, the Chair shall call for an organization meeting to set monthly meeting dates which best appear to meet the needs of the Commission.
2. **Special Meetings.** The Commission may meet at any time at the call of the Secretary of State, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Commission, or a majority of its members. Each member of the Commission must have at least 24 hours notice of the time, place and purpose of the meeting in writing unless written notice is not possible. In such case, notice must be given by the staff by phone, fax, e-mail or other means available. Each Commissioner may notify the staff of his or her preference for notification and the staff shall prepare a log of its actions in notifying Commissioners.
3. **Agenda.** The Director will prepare a written agenda for each meeting of the Commission. The agenda will contain items of business to be considered, staff findings and recommendations, and will include the date, time and location of the meeting. The agenda must be mailed to each Commissioner at least 7 days before the meeting unless a different schedule is approved by the Chair who shall provide notice to the Commissioners of the change and the reasons therefore.
4. **Notice.** In addition to the public notice required by the public meetings law, 1 M.R.S.A. §406, notice of Commission meetings shall be given to those directly involved in a matter pending before the Commission, as follows:
 - A. **Legislative Ethics.** When a properly filed request or referral is made for an advisory opinion on a question of legislative ethics, notice that the matter has been placed on the agenda for a Commission meeting will be given by mail to the Legislator whose circumstances or conduct is at issue, or to the Presiding Officer of either House referring the inquiry. When a complaint alleging a violation of the laws on legislative ethics is filed, the Legislator will be informed promptly of the nature of the allegations and the existence of any investigation by the Commission. Notice that the matter has been placed on the agenda for a Commission hearing will be given by certified mail to both the Legislator and the complainant not less than 10 days before the date set for a hearing.
 - B. **Campaign Reports and Finances Law; Lobbyist Disclosure Law.** Notice of the Commission's consideration of any noncompliance with the requirements of the Campaign Reports and Finances Law, the Maine Clean Election Act, or Lobbyist Disclosure Law will be provided to any person or organization alleged to have committed a violation and to any person who has officially requested a Commission investigation or determination, except that notice of the Commission's consideration of issuing subpoenas to conduct an investigation need not be given.

Commission Meeting Schedule

Su	M	T	W	Th	F	Sa
26	27	28	29	30 Commission Meeting	1	2
3	4	5 28-day period begins	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28 Scheduled Meeting	29	30
31	1	2 Election Day				